

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA**

TRACIE CHIN and SALVATORE  
MONTALBANO, individually, and on behalf  
of other members of the general public  
similarly situated,

Plaintiffs,

vs.

GENERAL MILLS, INC.,

Defendant.

CLASS ACTION

Case No. 12-cv-2150-MJD-TNL

**DEFENDANT GENERAL MILLS,  
INC.'S MOTION TO DISMISS  
AMENDED COMPLAINT  
PURSUANT TO RULES 12(b)(1)  
AND 12(b)(6)**

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Pursuant to Rules 12(b)(1) and 12(b)(6), Defendant General Mills, Inc. (“General Mills”) moves this Court for an Order dismissing the Amended Complaint. General Mills moves the Court for an Order dismissing all Counts in the Amended Complaint pursuant to Rule 12(b)(1) because Plaintiffs lack standing under Article III of the United States Constitution to assert claims related to products they did not purchase.

General Mills also moves this Court for an Order dismissing Count I (Magnuson-Moss Warranty Act written-warranty claim), Count II (Magnuson-Moss Warranty Act implied-warranty claim), Count III (unjust enrichment), Count IV (breach of express warranty), Count V (breach of implied warranty), Count VI (fraudulent misrepresentation), Count VII (Minnesota’s consumer protection statutes), and Count X (New Jersey Consumer Fraud Act) of the Amended Complaint pursuant to Rule 12(b)(6) because Plaintiffs have failed to state viable claims.

This Motion is based upon the accompanying Memorandum of Law in support of the Motion, the Declaration of Maria Carolina Comings, Exhibits 1-11 thereto, as well as the files, records, and proceedings herein.

Dated: January 22, 2013

Respectfully submitted,

s/ Jerry W. Blackwell

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